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09/351,399	07/13/1999	AKIRA OGINO	450100-4982	9658

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EXAMINER

REAGAN, JAMES A

ART UNIT	PAPER NUMBER
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3621

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**GROUP 4605**

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/351,399  
Filing Date: July 13, 1999  
Appellant(s): OGINO ET AL.

\_\_\_\_\_  
Samuel H. Megerditchian  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the supplemental appeal brief filed 13 July 2004.

**(1) Real Party in Interest**

A statement identifying the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) Status of Claims**

The statement of the status of the claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Invention**

The summary of invention contained in the brief is correct.

**(6) Issues**

The appellant's statement of the issues in the brief is correct.

**(7) Grouping of Claims**

Appellant's brief includes a statement that all claims stand or fall together.

**(8) Claims Appealed**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) Prior Art of Record**

6,134,409 B2	Schneck et al.	11-2001
6,374,036 B1	Ryan et al.	04-2002
6,226,618 B1	Downs et al.	05-2001
Japan 10-65662		1998

**(10) Grounds of Rejection**

The following is a NEW ground(s) of rejection, and is applicable to the appealed claims:

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 13-15, 20-24, 32-36, 44-46, and 51-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 10-65662 (JP '662 hereinafter) in view of Schneck et al. (Schneck hereinafter: US PAT. 6,314,409 B2) and Ryan et al. (Ryan hereinafter: US PAT. 6,374,036 B1), and further in view of Downs et al. (US 6,226,618 B1).

**Claims 1, 13, and 20:**

JP '662 discloses an information signal playback system having all of the features claimed except for the explicit disclosure of (a) the output means for supplying the information on copyright protection encrypted by the encryption means and the unencrypted information on copyright protection and the main information signal on which copy control information is

embodied to the information signal processing apparatus and (b) a watermark detecting means: see an attached figure. However, Schneck discloses the output means for supplying the information on copyright protection encrypted by the encryption means and the unencrypted information on copyright protection and the main information signal on which copy control information is embodied to the information signal processing apparatus and copy control information for a system to control access and distribution of digital property (e.g., Abstract; col. 7, lines 22-50; col. 10, lines 47-65; col. 13, lines 58-62; col. 23, lines 25-27). Further, Ryan discloses the use of watermark for controlling copy of a digital video signal. In column 3, lines 23-35, Ryan discloses comparing values from the watermark to ensure that only authorized use of the digitized work is allowed. Although Ryan does not specifically disclose that encrypted and unencrypted information are compared, the feature of comparing attributes to known standards is a variation of comparing bits and data streams that one of ordinary skill in the art would recognize as a viable and straightforward means of detecting fraudulent conduct. Thus, it would have been within the level of ordinary skill in the art to modify the system of JP '662 by adopting the teachings of Schneck and Ryan to enhance the functions of the claimed system by providing additional copy protection features.

Downs, in at least column 15, line 58 to column 16, line 50, discloses the encryption/decryption process using symmetric keys and hashing algorithms to produce and compare a string of resultant characters (HASH) before and after transmission of the digital file to ensure that the file was not tampered with enroute to its destination, exactly and clearly disclosing Appellant's limitation of *comparing means for comparing the decrypted information on said copyright protection with the unencrypted information on said copyright protection to judge if an attempt to alter the information on said copyright protection has been performed*. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the system of JP '662/Schneck/Ryan with the hashing technique of Downs because this would provide an additional layer of protection during transmission of digital files.

**Claims 32, 44, and 51:**

None of JP '662, Schneck, Ryan and Downs explicitly discloses the claimed methods. However, it would have been obvious to operate the system, which would have been obvious as stated supra.

**Claims 2, 14, 21, 33, 45, and 52:**

Both Schneck (e.g., col. 18, lines 11-17) and Ryan (e.g., col. 2, lines 30-35) disclose that the information on copyright protection is media-type information indicating the type of the recording medium. Thus, it would have been within the level of ordinary skill in the art to modify the apparatus and method of JP '662 by adopting the teachings of Schneck and Ryan to provide better control of reproduction of the information to the claimed apparatus and method.

**Claims 3, 15, 22, 34, 46, and 53:**

JP '662 does not explicitly disclose the use of CSS system. However, CSS system is one of old and well-known recording and reproducing system and nothing unobvious is seen to have been involved simply having employed this well known system for an information signal playback system of the sort here involved.

**Claims 4, 5, 23, 24, 35, 36, 54, and 55:**

None of JP '662, Schneck, Ryan and Downs explicitly discloses the use of additional information (additional digital watermark information). However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to any desirable number of digital watermark information, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

With regard to the limitation of never-copy or copy once implementations, Ryan discloses using a watermark to enable copy once or never copy permissions for a digital work (abstract and related text). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the copy permissions of Ryan because providing a means for controlling the unauthorized distribution of digital works, "...offers improved security and economics" (Ryan, column 2, lines 30-32).

**(11) Response to Argument**

Issue 1

Appellant's asserts that the prior art of record does not fairly teach or disclose the limitation of a *comparing means for comparing the decrypted information on said copyright protection with the unencrypted information on said copyright protection to judge if an attempt to alter the information on said copyright protection has been performed*. The Examiner respectfully disagrees. Downs, in at least column 15, line 58 to column 16, line 50, discloses the encryption/decryption process using symmetric keys and hashing algorithms to produce and compare a string of resultant characters (HASH) before and after transmission of the digital file to ensure that the file was not tampered with enroute to its destination. Using the example of Downs, a digital file is simultaneously sent along with a HASH value (an encrypted version of the digital file) to a destination, wherein the unencrypted file is again passed through the hashing algorithm and the resultant HASH is compared to the original HASH sent along with the original message. If the two character strings match, no tampering has occurred. Obviously, the hashing algorithm is indifferent to the file being hashed, and the algorithm could hash a music file as well as the copyright data associated with a music file. In this case, the data itself is irrelevant and non-functional with regard to the hashing step. However, Downs does show, in at least column 52, lines 58+ and column 55, line 12+ that watermarking encryption processes are used in conjunction with the copyright data associated with the digital file.

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Remain steps and components of independent claims are clearly shown in the figure attached as an appendix to this answer, which was originally cited in the first Office action dated 15 March 2002, none of which are argued or opposed by the Appellant.

In addition, Appellant's arguments regarding the asserted failures of Schneck and/or Ryan to fully disclose the claimed invention are rendered moot based upon the addition of Downs to the rejection.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

James A. REAGAN  
Examiner Art Unit 3621  
January 10, 2005

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# APPENDIX

